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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,787	08/26/2003	Pierre Rondeau	RP-00128-US55	2014

28735 7590 03/23/2005

BOMBARDIER RECREATIONAL PRODUCTS INC
INTELLECTUAL PROPERTY DEPT
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EXAMINER

FLEMING, FAYE M

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,787

Applicant(s)

RONDEAU ET AL.

Examiner

Faye M. Fleming

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 3-28 are rejected under 35 U.S.C. 101 because the claim language "...the standard driver is seated in a standard driver position defined as the standard driver straddling and being seated on the seat on the main seat portion with its feet disposed on the driver's footrests and its hands disposed on the handlebars, and the standard passenger is seated in a standard passenger position defined as the standard passenger straddling and being seated on the seat on the secondary seat portion with its feet disposed on the passenger's footrests and its hands disposed on the grab handles..." is improper because the passenger is a non-statutory subject. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4-10, 15-18, 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura (6,622,806).

Matsuura teaches an ATV comprising a frame 12; only four wheels suspended from the frame, two of which are front wheels and two which are rear wheels, the front wheels defining a front axis and the rear wheels defining a rear axis; a power unit; a straddle-type seat supported including a main seat portion and a secondary seat portion, rearward of the main portion; right and left footrests including a front footrest 50, 54 and a rear footrest 50; a steering member comprising handlebars; and a pair of grab handles via 46. The front footrest 54 and the rear footrest 50 of each of the right and left footrests are separate. The front footrest 50 and the rear footrest 50 of each of the right and left footrests are integral. As shown in figure 2, Matsuura teaches a heel stop. The front and rear footrests each include upper surfaces that are substantially horizontal. One of the front and rear footrests is angled with respect to horizontal, for each of the right and left footrests, respectively.

With respect to the wheelbase, it would have been an obvious matter of design choice to have the wheelbase a specific size and/or a size within a specific range, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art, as well as, discovering the optimum or workable ranges involves only routine skill in the art.

Regarding claims 6-9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a longitudinal length of each of the right and of the left footrests be within a specific distance, since it has been held that

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where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Regarding claim 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a specific ratio of the wheelbase to a longitudinal length of the footrest, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Regarding claim 28, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a specific air pressure in the tires, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Response to Arguments

4. Applicant's arguments filed December 22, 2004 have been fully considered but they are not persuasive. The references clearly teaches the claimed structure.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

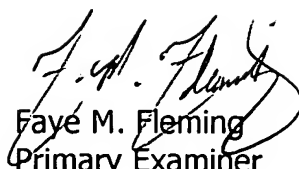
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye M. Fleming whose telephone number is (703) 305-0209 (after April 6, 2005, (571) 272-6672). The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089 (after April 6, 2005, (571) 272-6669). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Faye M. Fleming
Primary Examiner
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